

ESTTA Tracking number: **ESTTA776773**

Filing date: **10/14/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Versacold Logistics Services		
Entity	Limited Partnership	Citizenship	Ontario, Canada
Address	2115 Commissioner Street Vancouver, BC V5L1A6 CANADA		

Attorney information	Anne W. Glazer Stoel Rives LLP 760 SW Ninth Avenue, Suite 3000 Portland, OR 97205 UNITED STATES anne.glazer@stoel.com, steven.klein@stoel.com, peggy.hall@stoel.com, dock- etclerk@stoel.com
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Registration Subject to Cancellation

Registration No	2588431	Registration date	07/02/2002
Registrant	Nash-Finch Company 7600 France Avenue South Minneapolis, MN 55435 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2000/10/11 First Use In Commerce: 2000/10/11 All goods and services in the class are cancelled, namely: Wholesale grocery distributorship services
Class 039. First Use: 2000/10/11 First Use In Commerce: 2000/10/11 All goods and services in the class are cancelled, namely: Transportation services, namely delivery of groceries, meat and produce to grocers

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	Petition to Cancel U.S. Reg. 2588341.pdf(16052 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s Steven E. Klein/
Name	Steven E. Klein
Date	10/14/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Registration No. 2,588,431
For the Mark PERFORMANCE DRIVEN

Versacold Logistics Services,)	Cancellation No. _____
)	
)	
)	
)	
v.)	
)	
Nash-Finch Company,)	
)	
)	
)	
)	

PETITION TO CANCEL

THE PARTIES

1. Petitioner is Versacold Logistics Services (“Petitioner”), a limited partnership existing under the laws of the Province of Ontario, Canada, with an address at 2115 Commissioner Street, Vancouver, B.C., Canada V5L1A6.

2. Nash-Finch Company (“Registrant”) is, on information and belief, a Delaware corporation, with an address at 7600 France Avenue South, Minneapolis, Minnesota 55435.

GROUND FOR CANCELLATION

3. Petitioner believes it has been and will be damaged by Registration No. 2,588,431 (the “Registration”) for the mark PERFORMANCE DRIVEN and hereby petitions for cancellation of the Registration pursuant to 15 USC § 1064(3).

4. Petitioner is the owner of an application to register the mark PERFORMANCE DRIVEN, U.S. Serial No. 86/858,662, (the “Mark”), which has received a

refusal based on an asserted conflict with the Registration.

5. Upon information and belief, Registrant has abandoned the mark that is the subject of the Registration by discontinuing use of the mark with all the services identified in the Registration, and with no intent to resume such use.

6. According to documents publicly filed with the U.S. Securities and Exchange Commission (“SEC”), on or about November 19, 2013, Registrant, through merger, became a wholly-owned subsidiary of the Spartan Stores, Inc., which began operating under the name SpartanNash.

7. Upon information and belief, on or about November 19, 2013, Registrant discontinued use of its website at www.nashfinch.com and began forwarding that address to www.spartannash.com. Upon information and belief, by May 2015, Registrant had discontinued the forwarding of the www.nashfinch.com, so that www.spartannash.com became Registrant’s main web address.

8. A review of Registrant’s current internet website at www.spartannash.com does not disclose any use or reference to the use of the mark PERFORMANCE DRIVEN by the Registrant with any of the services identified in the Registration (or any other goods or services).

9. A search of the public SEC filings for SpartanNash made in 2014, 2015 and 2016 does not disclose any use or reference to the use of the mark PERFORMANCE DRIVEN by the Registrant with any of the services identified in the Registration (or any other goods or services).

10. Upon information and belief, prior to November 19, 2013, Registrant owned the domain name performance-driven.com. A search of current public WHOIS records of domain registration records discloses that the domain name performamance-driven.com is no

longer registered.

11. Upon information and belief, Registrant has discontinued use of the mark PERFORMANCE DRIVEN in connection with all of the recited goods and services claimed in the Registration and did so with the intent not to resume use of the mark PERFORMANCE DRIVEN in connection with the recited goods and services claimed in the Registration.

12. Accordingly, Registrant has abandoned its mark PERFORMANCE DRIVEN in connection with the recited goods and services claimed in the Registration.

13. A trademark registration for a mark that has been abandoned is subject to cancellation under Section 14 of The Lanham Act, and Petitioner hereby submits this petition to cancel the Registration on that basis.

WHEREFORE, Petitioner believes it has been and will be damaged by Registration No. 2,588,431, and Petitioner prays that this Petition for Cancellation be sustained in its favor and that the Registration be cancelled pursuant to 15 USC § 1064(3).

Dated: October 14, 2016.

Respectfully submitted,

/s Steven E. Klein/
Anne W. Glazer
Steven E. Klein
STOEL RIVES LLP
760 SW Ninth Avenue, Suite 3000
Portland, Oregon 97205
(503) 294-9584

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **PETITION FOR CANCELLATION**
on the following named persons on the date indicated below by:

X mailing with postage prepaid
hand delivery
facsimile transmission
overnight delivery
e-mail attachment in PDF format

to said persons a true copy thereof, contained in a sealed envelope, addressed to said persons
at their last-known address indicated below.

Nash-Finch Company
7600 France Avenue South
Minneapolis, Minnesota 55435

John A. Clifford
MERCHANT & GOULD P.C.
PO BOX 2910
MINNEAPOLIS, MINNESOTA 55402-0910

DATED: October 14, 2016.

/s Steven E. Klein/
Steven E. Klein